United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

HENRY SCHEIN, INC.,
Plaintiff,
v.
JENNIFER COOK,
Defendant.

Case No. 16-cv-03166-JST

ORDER RE: DISCOVERY DISPUTE

Re: ECF No. 35

The Court now has before it the joint discovery dispute letter submitted by Plaintiff Henry Schein, Inc. ("HSI") and third party Patterson Dental Supply, Inc. ("Patterson"). ECF No. 35.

Patterson's request that HSI affirmatively produce discovery to Patterson is denied. The Court is aware of no authority, and Patterson cites none, that would obligate HSI to produce such discovery. That Patterson may have signed a protective order is insufficient to create any obligation by HSI, id. at 2, as is the fact that HSI has produced a "highly confidential" document to Patterson, id. As Patterson itself recognizes, the rights and obligations of non-parties are very different from those of parties. Id. at 3.

For its part, HSI requests that Patterson be required to (1) produce documents related to Patterson sales representatives Jeffrey Mortenson and Denise Hebert, id. at 4; and (2) make a number of representations regarding its search for customer-related documents, id. at 4-5. Patterson responds that these issues "are the subject of ongoing negotiations" and so consideration of them now is premature. Id. at 2.

With regard to the Mortenson/Hebert documents, the Court orders Patterson to produce whatever additional documents it intends to provide by August 26, 2016. If HSI remains dissatisfied, the parties can submit another joint discovery letter. In light of Patterson's representation regarding the imaging of Mortenson and Hebert's electronic devices, any such letter should address the requirement that discovery be "proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(1).

With regard to the customer-related documents, if HSI wants further information regarding the scope or adequacy of Patterson's search, it should take the deposition of Patterson's custodian of records. That process will consume less time than further informal or formal motion practice.

IT IS SO ORDERED.

Dated: August 17, 2016

JON S. TIGAR
United States District Judge